

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF DEPARTMENT OF
INSURANCE, FINANCIAL INSTITUTIONS
AND PROFESSIONAL REGISTRATION,

Petitioner,

vs.

ANDREA L. JOHNSON,

Respondent.

No. 06-1783 DI

061101317C

DECISION

Andrea L. Johnson is subject to discipline because she violated insurance laws and
because she was disciplined in another state.

Procedure

On December 19, 2006, the Director of the Department of Insurance, Financial Institutions and Professional Registration ("the Director") filed a complaint seeking to discipline Johnson. On January 19, 2007, Johnson filed an answer. On June 11, 2007, we held a hearing on the complaint. Legal counsel Kevin Hall represented the Director. Neither Johnson nor anyone representing her appeared. The matter became ready for our decision on August 13, 2007, the date Johnson's brief was due.

Findings of Fact

1. Johnson is, and was at all relevant times, licensed as an insurance producer.
2. By letter dated July 25, 2006, the Director's special investigator Robert Volkmer asked Johnson to provide a copy of the charging document and judgment concerning her plea of nolo contendere to charges of theft of personal property in the United States District Court, Middle District of Georgia. The letter requested that Johnson provide this information to the Director no later than August 22, 2006. The letter was sent by regular mail to the only address that the Director had on file for Johnson. There was no evidence that the letter was returned.
3. Johnson did not respond to Volkmer's letter or provide the requested documents.
4. On August 18, 2006, the Indiana Commissioner of Insurance issued Findings of Fact and Suspension Order ("the Indiana Suspension Order") suspending Johnson's license for failure to provide a list of appointments as requested.
5. Johnson did not provide the Director with any information about the Indiana Suspension Order.

Conclusions of Law

We have jurisdiction to hear this case.¹ The Director has the burden of proving that Johnson has committed an act for which the law allows discipline.² The Director argues that there is cause for discipline under § 375.141, which states:

1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

* * *

¹Section 621.045. Statutory references are to RSMo Supp. 2006 unless otherwise noted.

²*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

(2) Violating any insurance laws, or violating any regulations, subpoena or order of the director of another insurance commissioner in any other state;

* * *

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

Violating Insurance Laws

The Director argues that Johnson violated § 375.141.6, which states:

An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

Johnson failed to report the Indiana Suspension Order to the Director. She violated § 375.141.6.

The Director also argues that Johnson violated § 374.210.2, RSMo 2000, which states:

Any person who shall refuse to give such director full and truthful information, and answer in writing to any inquiry or question made in writing by the director, in regard to the business of insurance carried on by such person, or to appear and testify under oath before the director in regard to the same, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding three months.

The Director mailed the letter requesting information to the only address on file for Johnson.

From testimony that the letter was mailed, we may presume that Johnson received the letter.³

We have no evidence to rebut that presumption, and we find that Johnson received the letter.

Johnson failed to respond to the Director's request for information about her criminal history of theft. She violated § 374.210.2, RSMo 2000.

³*Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App., S.D. 1990).

There is cause for discipline under § 375.141.1(2) for violating § 375.141.6 and § 374.210.2, RSMo 2000.

License Suspended in Indiana

While the Indiana Suspension Order does not specify what type of license Johnson had, it does assert that she had a license under the Department of Insurance, and she admitted that she had an insurance agent's license in both Missouri and Indiana. We find that she had the equivalent of an insurance producer license suspended in another state. There is cause for discipline under § 375.141.1(9).

Summary

Johnson is subject to discipline under § 375.141.1(2) and (9).

SO ORDERED on September 20, 2007.



JOHN J. KOPP
Commissioner